

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY

Call to Order: By **CHAIRMAN AL BISHOP**, on February 17, 2001 at 9:00 A.M., in Room 317-A Capitol.

ROLL CALL

Members Present:

Sen. Al Bishop, Chairman (R)
Sen. Duane Grimes, Vice Chairman (R)
Sen. Chris Christiaens (D)
Sen. Bob DePratu (R)
Sen. Eve Franklin (D)
Sen. Don Hargrove (R)
Sen. Dan Harrington (D)
Sen. Royal Johnson (R)
Sen. Emily Stonington (D)

Members Excused: Sen. Jerry O'Neil (R)
Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Jeanne Forrester, Committee Secretary
Susan Fox, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 434, 2/12/2001; SB 412,
2/12/2001; SB 442, 2/12/2001;
SB 461, 2/12/2001; SB 440,
2/12/2001; SB 464, 2/12/2001

Executive Action:

HEARING ON SB 434

Sponsor: SEN. DALE BERRY, SD 30, HAMILTON

Proponents: Jim Ahrens, Montana Hospital Association

John Flink, Montana Hospital Association
Rose Hughes, Montana Health Care Association

Opponents: **SEN. EVE FRANKLIN, GREAT FALLS**
Kim Powell, Board of Nursing
Jack Burke, Board of Nursing
Tom Ebzery, St. Patrick's Hospital

Opening Statement by Sponsor:

SEN. DALE BERRY, SD 30, HAMILTON introduced SB 434. This is an act directing the Board of Nursing to amend its administrative rule requiring nurses to wear a name badge displaying their first and last name. This bill would delete the requirement that the nurse's last name appear on the name badge. **SEN. BERRY** passed out a petition signed by those who were opposed to the last name on the name badge **EXHIBIT (phs40a01)** and a letter from **John Bartos EXHIBIT (phs40a02)**.

Proponents' Testimony:

Jim Ahrens, Montana Hospital Association said they are in support of this bill. He said that hospitals are generally safe places, but strange things can happen.

John Flink, Montana Hospital Association passed out a letter of testimony from **Jennie Nemec EXHIBIT (phs40a03)**. He said he wanted to stress this should be an individual facilities' decision.

Rose Hughes, Montana Health Care Association said they were in support of this bill.

Opponents' Testimony:

SEN. EVE FRANKLIN, GREAT FALLS said she was representing herself, as a nursing professional. She felt the public has a right to know who is taking care of them.

Kim Hollow, Board of Nursing submitted a letter of testimony **EXHIBIT (phs40a04)** She passed out a copy of testimony from **Steven Rice EXHIBIT (phs40a05)**.

Jack Burke, Board of Nursing presented a copy of his testimony **EXHIBIT (phs40a06)**.

Tom Ebzery, St. Patrick's Hospital asked the committee to table this bill.

Questions from Committee Members and Responses:

SEN. JOHNSON asked if there was still an Administrative Code Committee. **SEN. STONINGTON** said each agency had been assigned to an interim committee for oversight on the rules.

SEN. JOHNSON asked if this problem of last names on name badges had come before the Board of Nursing (BON) in the last year. **Mr. Burke** said they had not had any formal appeals. **SEN. JOHNSON** asked is this was how they handle the problem - by bringing it to the legislature.

SEN STONINGTON said the rule adopting the first and last name was only put into effect on October 5, 2000.

SEN. HARGROVE asked why couldn't the BON make this decision, rather than the legislature. **Ms. Powell** said they would prefer the legislature not remove this from the rule making authority.

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Closing by Sponsor:

SEN. BERRY said he believed the qualifications, such as RN, should be on your badge. He asked the committee to give this a good deliberation. He added this should be up to the local hospitals or nursing homes.

HEARING ON SB 412

Sponsor: **SEN. JOHN COBB, SD 25, AUGUSTA**

Proponents: **Susan Good, Allied Citizens for Health Care Equity**
Jerry Loendorf, Montana Medical Association
Sami Butler, Montana Nurses Association

Opponents: **Joe Mazurek, BlueCross BlueShield**
Tom Clinch, US Health Services
Paige Dringeman, Health Insurance Association of America
Steve Turkiewicz, Montana Auto Dealers Association
Tanya Ask, BlueCross BlueShield
Mary Allen, Montana Benefits and Life Company
Bill Leary, Montana Bank Association

Opening Statement by Sponsor:

SEN. JOHN COBB, SD 25, AUGUSTA introduced SB 412. This bill is an act authorizing joint negotiation by competing physicians of certain terms and conditions of contracts with health benefit plans that dominate the market.

Proponents' Testimony:

Susan Good, Allied Citizens for Health Care Equity passed out a card showing market dominance **EXHIBIT (phs40a07)**. This bill would allow smaller companies to negotiate with larger companies whose market share exceeds 25 percent. She said when you have an entity with such large clout, they are able to dictate all the different levels of contract negotiations. This bill would level the playing field between insurers, physicians, and other health care professionals.

Jerry Loendorf, Montana Medical Association said this bill would allow a group of providers to go out and negotiate with health benefit plans. Generally, because of the antitrust laws, a group of providers, such as physicians, cannot get together and compete with another organization. He said this is a bill that would promote fairness and allow individuals, who cannot negotiate, to have some authority to negotiate.

Sami Butler, Montana Nurses Association said this bill would allow more advocacy for patients by their health care providers. She said they were concerned about APRN's being left out of the bill and submitted amendments **EXHIBIT (phs40a08)**. She hoped the committee would pass this bill and the amendments.

Opponents' Testimony:

Joe Mazurek, BlueCross BlueShield submitted a copy of his testimony **EXHIBIT (phs40a09)**.

Tom Clinch, US Health Services said they are opposed to this bill, because they believe the ultimate outcome would be to decrease competition within the health care industry and increase cost to employers.

Paige Dringman, Health Insurance Association of America said they oppose this bill.

Steve Turkiewicz, Montana Auto Dealers Association said they have provided health insurance for their members since 1947. He said he would like the committee to think about the fact that affordable health insurance is only available when we have affordable health care.

He submitted a letter from the Montana Logging Association
EXHIBIT (phs40a10) .

Tanya Ask, BlueCross BlueShield submitted letters from **Bill McDonald** and **Joseph Knapp** **EXHIBIT** (phs40a11) .

Mary Allen, Montana Benefits and Life Company said they are opposed to this bill.

Bill Leary, Montana Bank Association said they are opposed to this bill. They are concerned the cost of medical health insurance would increase as a result of the passage of this bill.

Questions from Committee Members and Responses:

SEN. FRANKLIN asked what the State Auditor's Office thought about this bill. **Claudia Clifford** said this bill would require their office to increase their staff to handle the increased regulations. She added that dealing with antitrust issues are very complex situations.

SEN. HARRINGTON asked if there was any agreement between the doctors and BCBS, when setting costs for procedures. **Ms. Ask** said when BCBS sets their reimbursements they do it on an annual basis. They have a group of physicians who analyze all of the data from the past year, to determine what the level of reimbursements will be.

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Ms. Good said BCBS did have a roundtable of physicians who have done that, but they cancelled it this year. Apparently this year, BCBS is going to go around and talk to the physicians individually.

SEN. FRANKLIN asked why the physicians are prohibited from forming special organizations rather than having state oversight. **Ms. Good** said it was very easy to run afoul without the state oversight.

SEN. STONINGTON asked about section 8, page 6, and how does this involve the commissioner's office. She thought there would be some additional expense for that office by adding new regulations. **Ms. Good** said in subsection 2, they are already doing this. She said the bill was giving good direction, all that was left was to write some rules.

SEN. STONINGTON said that once they rules are written, do you believe they will not have to administer them. **Ms. Good** said she did believe that.

SEN. STONINGTON asked to have the antitrust protections explained. **Ms. Good** said antitrust rules deal mostly with price fixing. **Mr. Loendorf** said antitrust is very simply this: as a general rule, competitors cannot get together and negotiate.

SEN. FRANKLIN asked how do you determine the market share. **Ms. Clifford** said they don't determine the market share; they receive information from the health insurers.

Closing by Sponsor:

SEN. COBB said health care is a big industry. He asked how do we insure competition, how do we insure fair access to people, and how do we level the playing field. You may have noticed many of the opponents' of this bill were the big players. He said many times when you have a monopoly, the costs go up. Right now in health care we seem to have fewer players. It seems the bigger players get bigger and the smaller players are ceasing to exist. He predicted that in a few years we are going to have a crisis in health care.

HEARING ON SB 442

Sponsor: **SEN. JOHN COBB, SD 25, AUGUSTA**

Proponents: **Mike Barrett, Helena**

Opponents: None

Opening Statement by Sponsor:

SEN. JOHN COBB, SD 25, AUGUSTA introduced SB 442. This bill would create revolving loans for low-income families from block grant funds.

Proponents' Testimony:

Mike Barrett submitted a copy of his testimony **EXHIBIT (phs40a12)**.

Opponents' Testimony: None

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Questions from Committee Members and Responses:

SEN. STONINGTON asked how much money would be involved. **SEN. COBB** said there is no cost to the state. The DPHHS would decide how much money that would be put into this. He said this money would not be a grant, it would be a loan.

Closing by Sponsor:

SEN. COBB closed on SB 442.

HEARING ON SB 461

Sponsor: **SEN. EVE FRANKLIN, SD 21, GREAT FALLS**

Proponents: **Mary Gettel, Great Falls**

Opponents: **Dr. Jack McMann, Montana Medical Association**
Michael Spence, DPHHS

Opening Statement by Sponsor:

SEN. EVE FRANKLIN, SD 21, GREAT FALLS introduced SB 461. She said this is a bill that would require a physician to obtain written informed consent from a patient before receiving a hysterectomy.

Proponents' Testimony:

Mary Gettel, Great Falls presented a copy of her testimony **EXHIBIT** (phs40a13).

Opponents' Testimony:

Dr. Jack McMann, Montana Medical Association said the idea of informed consent is not anything new. He said he has always advised his patients to have someone with them (a witness), when they are going to discuss serious medical issues. He said there are already laws about informed consent. He added we do not need a bill, with respect to hysterectomy, that is different from anything else. He said doctors already have an obligation to make sure a patients understand their options.

Michael Spence, DPHHS said hysterectomies are very complex surgeries, but he was not sure these procedures require specific legislation. He believed there are many safeguards in place at the current time. He felt to legislate something like this was inappropriate and he requested no to pass this bill.

Questions from Committee Members and Responses:

SEN. STONINGTON asked **Dr. McMann** about the full consent statutes already in place. **Dr. McMann** said it is a legal obligation of the physician, in the State of Montana or any jurisdiction, to explain the options to their patients and any risks that would be involved in the procedures.

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SEN. STONINGTON said the section in law on breast cancer treatment is written with language that is more general than what you are proposing. Would you be willing to amend your bill to try to make the language a little less specific? **SEN. FRANKLIN** said she would be willing to look at some amendments.

Closing by Sponsor:

SEN. FRANKLIN said these are always difficult kinds of bills to look at when we are trying to sort out consumer needs and professional issues. She said patients under stress may not always hear what they have been told. **SEN. FRANKLIN** said she felt we have an obligation to do something different than what we are currently doing.

HEARING ON SB 440

Sponsor: **SEN. CHRIS CHRISTIAENS, SD 23, GREAT FALLS**

Proponents: Susan Good, Allied Citizens for Health Care Equity
 Claudia Clifford, State Auditor's Office
 Susan Witte, BlueCross BlueShield
 Don Allen, Montana Benefits and Life Company

Opponents: None

Opening Statement by Sponsor:

SEN. CHRIS CHRISTIAENS, SD 23, GREAT FALLS introduced SB 440. This is a bill that requires full disclosure to consumers of health care services. It would define cost participation requirements by insurers and health maintenance organizations. He said this bill is commonly known as the "plain language bill".

Proponents' Testimony:

Susan Good, Allied Citizens for Health Care Equity passed out a booklet of her own health insurance plan **EXHIBIT (phs40a14)**. She said the point of this bill is to clear up the confusion when you are buying health insurance. She also passed out a copy of an explanation of benefits (EOB) **EXHIBIT (phs40a15)**. This person thought she had adequate health insurance, but this EOB shows she would have over \$11,000 of out of pocket expenses. **Ms. Good** said the average person does not have a chance to understand what kind of coverage they have.

Claudia Clifford, State Auditor's Office said her office receives approximately 25,000 calls each year from consumers with questions and concerns about their insurance. She said the number one problem for consumers is they do not understand when they go out of a network, they can be stuck with additional charges that are not covered by their health plan. She said this is a good consumer information bill.

Susan Witte, BlueCross BlueShield passed out a copy of amendments **EXHIBIT (phs40a16)**. She said she felt this was a good bill.

Don Allen, Montana Benefits and Life Company said they are in support of this bill.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. STONINGTON asked what does full disclosure mean. **Ms. Clifford** said this bill would require her office to do a review of the summary of benefits. They would also be required to look at the health care policies to make sure it is explained if you go out of the network you could be responsible for additional charges the plan does not reimburse. **Ms. Clifford** said it would still be the responsibility of the consumer to make sure the providers you are going to see are in or outside of the provider network.

SEN. BISHOP made a suggestion, that whoever writes the insurance information, would make sure it is written in the most basic terms. He said he took insurance in law school and it was one of the hardest classes he had ever taken.

SEN. STONINGTON asked why the submitted charges and what you owe charges are the same amount **EXHIBIT (15)**. **Ms. Fox** said it could be the patient would receive a check from the insurance company.

Chuck Butler, BCBS, said he was concerned that this document **EXHIBIT (15)**, should not be a public document. **Ms. Good** said the person in **EXHIBIT (15)** had given permission to use this document. **Dr. McMann** explained the patient owes the entire bill, but that BCBS would pay the \$1900 directly to the patient, not the physician.

Closing by Sponsor:

SEN. CHRISTIAENS said we have that explanation of benefits **EXHIBIT (15)**, was to show what happens when you do not have plain language.

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HEARING ON SB 464

Sponsor: **SEN. DAN HARRINGTON, SD 19, ANACONDA**

Proponents: **Dr. Jack McMann, Montana Medical Association**

Opponents: **Rose Hughes, Montana Health Care Association**

Opening Statement by Sponsor:

SEN. DAN HARRINGTON, SD 19, ANACONDA introduced SB 464. This bill would establish certain requirements for immunizations for flu and pneumonia, for residents and employees of nursing homes. This would combat the spread of illness among the residents of nursing homes. It would not require immunization if the person objected because of religious beliefs.

Proponents' Testimony:

Dr. Jack McMann, Montana Medical Association said the people who are risk and are advised to get immunized are those 65 and older; or anyone with a chronic illness. Usually, these patients are concentrated in long-term facilities. He said when he was growing up nursing homes were places you were sent to die. Things have changed - we are living longer. This is the best thing to keep the people in nursing homes healthy. It is also an inexpensive way to make life better for other patients. He asked the committee to support this bill.

Opponents' Testimony:

Rose Hughes, Montana Health Care Association said it is uncomfortable to oppose a good idea, but a good idea does not always make a good law. She said nursing homes are not interested in any additional regulations. This would be another unfunded mandate. She said this new requirement would be too broad and it would include all those who would come in contact with the nursing homes. She said there is also a patient's rights issue with this bill. She closed by saying nursing homes are easy targets. They are given new rules and then these new requirements are not funded. She said this has to stop somewhere.

Informational Witness:

Dr. Michael Spence, DPHHS, said in reviewing data it was brought to his attention that in the past 10 years, 200 people aged 65 and older had died from influenza and/or pneumonia each year. These could have been preventable illnesses. The pneumonia shot is a one time shot and it would cost \$9.85 or less per shot. He felt everyone should get an influenza shot each year and the average shot costs about \$5.00. There is a lot of bad information out there about flu shots. These shots do not cause the flu or pneumonia. He said he thought it was a good business practice to allow people to get their shots.

Questions from Committee Members and Responses:

SEN. FRANKLIN asked how many agencies that are part of your organization had communicable disease policies. **Ms. Hughes** could not say how many agencies had such policies.

Closing by Sponsor:

SEN. HARRINGTON closed.

SEN. STONINGTON asked the committee if they would agree to have **SEN WATERMAN'S** bills - SB 458 and SB 466 put on the transmittal list. The committee said that would be fine.

ADJOURNMENT

Adjournment: 11:45 A.M.

SEN. AL BISHOP, Chairman

JEANNE FORRESTER, Secretary

AB/JF

EXHIBIT (phs40aad)